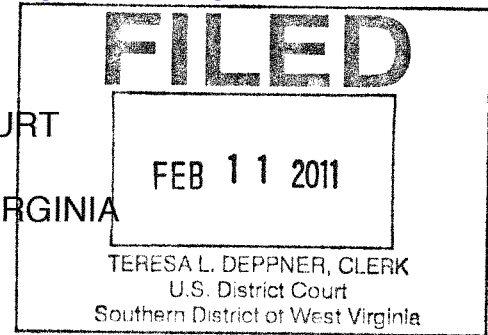


UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF WEST VIRGINIA
Charleston



United States of America,
Plaintiff,

v

Civil Action No. 2:10-cv-01087

\$88,029.08, more or less,
in a financial instrument and
United States of America
(John F. Tomasic and Katherine A. Hoover Interested Parties)

MOTION TO SET ASIDE DEFAULT JUDGMENT

The Application for Default Judgment filed by Ms Betty Pullin on February 7, 2011 is in error. The Default Order signed by Teresa Quigley should be set aside.

John F. Tomasic filed a verified response on November 2, 2010 at docket number 15. The response followed all of the applicable rules, although as pro se, the Court is required to give pro se litigants lenient interpretation of the rules.

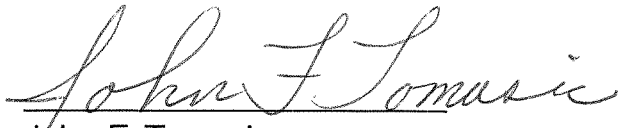
Katherine A. Hoover MD filed a separate verified response at docket number 20 on November 23, 2010 titled VERIFIED RESPONSE TO THE COMPLAINT OF FORFEITURE and RESPONSE TO MOTION TO STRIKE PLEADINGS. Dr. Hoover filed her verified response following all applicable rules.

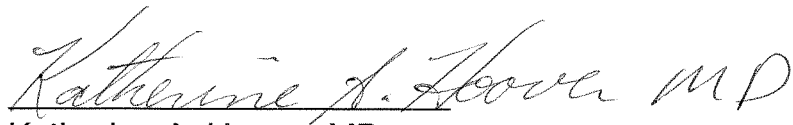
The Application by Ms. Pullin states that Docket # 9, 10, and 11 were struck by an Order by Magistrate Stanley. The Verified responses at Docket # 15 and 20 are currently part of the record and clearly demonstrate that the Clerk does not have the authority to sign a Default. Ms. Pullin admits in her Amended Response, Docket # 37 that the funds that were seized were from the law suit settlement received by Mr. Tomasic. Therefore, Ms. Pullin was fully aware of the **verified response** filed by Mr. Tomasic-Docket at 15. Ms. Pullin made the assertion that Dr. Hoover had no other income when Dr. Hoover had submitted proof of income from her uncle's estate, William B. Hoover at Docket #20.

Subject matter jurisdiction has not been established by Ms. Pullin or the Court so the Application for Default Judgment was in error since there was no subject matter jurisdiction.

Wherefore, John F. Tomasic and Katherine A. Hoover request that the Default Judgment entered on February 8, 2011 be set aside and the case be assigned to a fair judge.

Respectfully submitted,


John F. Tomasic


Katherine A. Hoover MD

CERTIFICATE OF SERVICE

I, Katherine A. Hoover MD, do hereby certify that a true and correct copy of the foregoing Motion to Set Aside Default Judgment has been faxed the the United States Attorney for the Southern District of West Virginia on February 11, 2011 to 304-347-5104.

A handwritten signature in cursive script that reads "Katherine A. Hoover MD". The signature is written in dark ink and is positioned above the printed contact information.

Katherine A. Hoover MD
c/o Dr. Norman Gay
N-3222
West Bay Medical Clinic
West Bay Street
Nassau, N.P., Bahamas
242-525-4018